33

D.B. CIVIL SPECIAL APPEAL NO.832/2006.
AMAR SINGH MAHERIA VS. LABOUR COURT AND ANR.

DATED :12/12/2006.

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. GOPAL KRISHAN VYAS J.

Mr.Vijay Mehta for appellant.

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Having heard learned counsel for the appellant and considered the judgment under appeal and other material placed on record we are of the opinion that no case for entertaining this appeal is made out.

The appellant as per his own admission was employed in all for a period of nine months from 01.03.1984 to 14.01.1985 and w.e.f. 15.01.1985 his services came to an end. A dispute was raised before the Labour Court in the Year 1997 about the validity of aforesaid alleged termination from services being a case of invalid retrenchment. The respondent employer has taken a plea that it was not a case of retrenchment but was of voluntary abandonment of job and not a case of termination of services because it was not a permanent job nor a regular employment.

Be that as it may, the Labour Court found that the appellant has worked actually more than 240 days during 12 months immediately preceding the date of termination and provisions of the Industrial Disputes Act, 1947 under

Chapter V A having not been complied with before affecting retrenchment, the retrenchment was held to be invalid. By way of relief it awarded reinstatement with 20% back wages from the date of reference.

The respondent employer preferred a Writ Petition challenging the award as S.B.Civil Writ Petition No.4776/2002 . The said writ petition was allowed by learned Single Judge vide judgment under appeal dated 16.10.2006.

While the learned Single Judge did not interfere with the findings about the validity of the retrenchment, he opined that in the facts and circumstances, reinstatement was not appropriate remedy. Considering very short period of employment, belated raising of dispute and making of reference after almost 12 years, reinstatement ought not to have been granted. Considering the period of service rendered before illegal retrenchment and the period that has elapsed between termination raising and referring the dispute to the Tribunal, the learned Single Judge awarded Rs.50,000/- by way of compensation against illegal retrenchment in full and final settlement of all his claims.

We are of the opinion that in the aforesaid facts and circumstances the modification of the award made by the learned Single Judge does not call for interference as we agree with the aforesaid reasons which weighed with learned Single Judge in substituting the relief of reinstatement with compensation and amount of compensation awarded by learned Single Judge

cannot be said to be inadequate.

Accordingly, the petition stands dismissed in limine.

[GOPAL KRISHAN VYAS],J. **[RAJESH BALIA], J.**

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